

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION**

<b>DAVID LOUIS PEARSON</b>	§	<b>PLAINTIFF</b>
	§	
<b>v.</b>	§	<b>Civil No. 1:20-cv-00166-HSO-RPM</b>
	§	
<b>COMMISSIONER OF SOCIAL SECURITY</b>	§	<b>DEFENDANT</b>
	§	

**ORDER GRANTING PLAINTIFF DAVID LOUIS PEARSON’S MOTION [20]  
FOR ATTORNEY FEES**

BEFORE THE COURT is Plaintiff David Louis Pearson’s Motion [20] for Award of Attorney Fees Pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d) and 5 U.S.C. § 504 (“EAJA”). 28 U.S.C. § 2412(d)(1)(A) provides:

Except as otherwise specifically provided by statute, a court shall award to a prevailing party other than the United States fees and other expenses, in addition to any costs awarded pursuant to subsection (a), incurred by that party in any civil action (other than cases sounding in tort), including proceedings for judicial review of agency action, brought by or against the United States in any court having jurisdiction of that action, unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust.

28 U.S.C. § 2412(d)(1)(A).

On August 18, 2021, the Court entered an Order [18] adopting the Report and Recommendation [16] of the Magistrate Judge that this case be remanded to Defendant Commissioner of Social Security (“Commissioner”)<sup>1</sup> for further proceedings. Order [18] at 1. Plaintiff David Louis Pearson (“Plaintiff”), as a

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<sup>1</sup> Kilolo Kijakazi became the Acting Commissioner of Social Security on July 9, 2021, and as the successor, he is “automatically substituted as a party” under Federal Rule of Civil Procedure 25(d).

prevailing party, filed the present Motion [20] seeking: \$5,118.89 in attorney fees at \$203.94 per hour for 25.1 hours of work; \$620.00 in paralegal fees at \$100.00 per hour for 6.2 hours of work; and \$48.08 in postage for a total award of \$5,738.89. Ex. 1 [20-1] at 2-3.

The Commissioner opposes Plaintiff's request for attorney fees only as to the hourly rate used to calculate the award. Resp. [25] at 2. The Commissioner contends that, pursuant to the Consumer Price Index area rate applicable to this jurisdiction and division, the maximum hourly rate for attorneys is \$196.35. *Id.* Applying this rate, the proper total for attorney fees is \$4,935.48 and the proper amount of the total award is \$5,603.56. *Id.* at 3-4. Plaintiff has filed a Notice [26] of Consent in which he consents both to the hourly rate and to the total award set forth in Commissioner's Response [25]. Notice [26].

**IT IS, THEREFORE, ORDERED AND ADJUDGED** that, Plaintiff David Louis Pearson's Motion [20] for Attorney Fees pursuant to the Equal Access to Justice Act is **GRANTED**. Plaintiff David Louis Pearson is awarded attorney fees in the amount of \$5,603.56. This award shall be made payable to Plaintiff David Louis Pearson, and not to his counsel.

**SO ORDERED AND ADJUDGED** this the 13th day of December, 2021.

*s/ Halil Suleyman Ozerden*  
HALIL SULEYMAN OZERDEN  
UNITED STATES DISTRICT JUDGE